

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a Washington corporation,

Plaintiff.

V.

MOTOROLA, INC., and MOTOROLA
MOBILITY, INC., and GENERAL
INSTRUMENT CORPORATION.

Defendants.

CASE NO. C10-1823-JLR

DECLARATION OF KEVIN J. POST IN
SUPPORT OF MOTOROLA'S RESPONSE
TO MICROSOFT'S MOTION TO AMEND
PROTECTIVE ORDER

**NOTED ON MOTION CALENDAR:
Thursday, September 13, 2012**

MOTOROLA MOBILITY, INC., and
GENERAL INSTRUMENT CORPORATION,

Plaintiffs/Counterclaim Defendant.

V

MICROSOFT CORPORATION

Defendant/Counterclaim Plaintiff:

DECLARATION OF KEVIN J. POST IN SUPPORT OF
MOTOROLA'S RESPONSE TO MICROSOFT'S MOTION TO
AMEND PROTECTIVE ORDER
CASE NO. C10-1823-JLR

SUMMIT LAW GROUP PLLC
315 FIFTH AVENUE SOUTH, SUITE 1000
SEATTLE, WASHINGTON 98104-2682
Telephone: (206) 676-7000
Fax: (206) 676-7001

1 I, KEVIN J. POST, declare as follows:

2 1. I am an associate at the law firm of Ropes & Gray LLP, counsel to Motorola
3 Mobility, Inc. and General Instrument Corporation (collectively "Motorola"), Defendants in this
4 action, and am a member in good standing of the bars of the State of New York and the District
5 of Columbia.

6 2. I submit this declaration in support of Motorola's Response to Microsoft's Motion
7 for Leave to File Motion to Amend Protective Order, submitted concurrently herewith.

8 3. As counsel for Motorola in this case, and other cases pending between Motorola
9 and Microsoft in this district and elsewhere, Ropes & Gray worked with Quinn Emanuel, counsel
10 for Motorola in its various cases against Apple, as well as against Microsoft. In an effort to
11 coordinate discovery activities between the various co-pending cases, attorneys from Quinn
12 Emanuel sent notice letters on behalf of Motorola to third parties whose confidential information
13 was responsive to various Apple and Microsoft discovery requests, notifying them of Motorola's
14 intent to produce those materials. Because the impacted cases were at various stages, no
15 protective order was attached to those notice letters, but Quinn Emanuel informed third parties
16 that their material would be produced under the highest confidentiality level allowable under
each protective order.

17 4. Attached as Exhibit 1 is a true and correct copy of a letter from counsel for
18 Motorola to Eastman Kodak Company, dated December 28, 2010, seeking permission to disclose
19 certain documents to opposing counsel in several actions, under the highest level of
20 confidentiality allowed by the applicable protective orders.

21 5. Attached as Exhibit 2 is a true and correct copy of an email from Eastman Kodak
22 Company to counsel for Motorola, dated January 19, 2011, consenting to the disclosure of
23 certain documents in several actions, under the "highest standard of confidentiality, i.e. outside
24 counsel attorney's eyes only."

25 DECLARATION OF KEVIN J. POST IN SUPPORT OF
26 MOTOROLA RESPONSE TO MICROSOFT'S MOTION FOR
LEAVE TO FILE MOTION TO AMEND PROTECTIVE
ORDER -- 2
CASE NO. C10-1823-JLR
31751467_3

SUMMIT LAW GROUP PLLC
315 FIFTH AVENUE SOUTH, SUITE 1000
SEATTLE, WASHINGTON 98104-2682
Telephone: (206) 676-7000
Fax: (206) 676-7001

1 6. The document productions made by Motorola in the Apple and Microsoft cases
 2 included materials produced previously in an ITC action pending between Motorola and
 3 Research In Motion (ITC Inv. No. 337-TA-706). During that Investigation, notice letters were
 4 sent out by Ropes & Gray, requesting permission to produce on an “outside counsel” only basis.

5 7. Attached as Exhibit 3 is a true and correct copy of a letter from counsel for
 6 Motorola to Hitachi, Ltd., dated April 5, 2010, seeking permission to disclose certain documents
 7 in connection with ITC Investigation 337-TA-706, under the applicable protective order, limiting
 8 disclosure to outside counsel, expert witnesses that subscribed to the protective order and ITC
 9 personnel.

10 8. Attached as Exhibit 4 is a true and correct copy of an email from Hitachi Ltd. to
 11 counsel for Motorola, dated April 5, 2010, consenting to the disclosure of certain documents
 12 under the protective order entered in ITC Investigation 337-TA-706, “which allows only outside
 13 counsel, expert witnesses and ITC personnel” access the relevant documents.

14 9. The above examples are representative of the correspondence between counsel for
 15 Motorola and other third parties who consented to the disclosure of that third party’s confidential
 16 information. The following third parties consented to the disclosure of confidential information
 17 under these terms: Agilent Technologies, Inc.; Aruba Networks, Inc.; Brightstar Corp.; Casio
 18 Computer Company, Ltd.; Chi Mei Communication Systems; Denso Corp.; Eastman Kodak Co.;
 19 Telefonaktiebolaget LM Ericsson; Giant Electronics Ltd.; Harris Corp.; Hand Held Products,
 20 Inc.; Hitachi Ltd.; Hop-on Wireless, Inc.; High Tech Computer Corp.; IFR Systems Inc.;
 21 Intermec Technologies Corp.; LG Electronics Inc.; Matsushita Electric Industrial Co., Ltd.;
 22 Metrologic Instruments, Inc.; NEC Corp.; Nokia Corp.; Option NV; Philips Electronics N.V.;
 23 Qisda Corp.; Qualcomm, Inc.; Research In Motion Ltd.; Sagem Communication; Samsung
 24 Electronics Co., Ltd.; Sanyo Electric Co., Ltd.; Sharp Corp.; Sierra Wireless, Inc.; Telit
 Communications S.p.A.; VTech Communications, Inc.

25 DECLARATION OF KEVIN J. POST IN SUPPORT OF
 26 MOTOROLA RESPONSE TO MICROSOFT’S MOTION FOR
 LEAVE TO FILE MOTION TO AMEND PROTECTIVE
 ORDER -- 3
 CASE NO. C10-1823-JLR

31751467_3

SHANNON LIAW GROUP PLLC
 3151 FIFTH AVENUE SOUTH SUITE 1000
 SEATTLE, WA 98101-3100 (206) 468-8822
 Telephone: (206) 767-0100
 Fax: (206) 767-0101

1 10. Exhibits 1 and 3 are also representative of letters sent by counsel for Motorola to
2 third parties, where such third parties did not respond to the letter.

3
4 I declare under penalty of perjury of the laws of the United States and the State of Washington
5 that the foregoing is true and correct.

6 DATED this 5th day of September, 2012.



7
8 Kevin J. Post
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DECLARATION OF KEVIN J. POST IN SUPPORT OF
MOTOROLA RESPONSE TO MICROSOFT'S MOTION FOR
LEAVE TO FILE MOTION TO AMEND PROTECTIVE
ORDER -- 4
CASE NO. C10-1823-JLR

31751467_3

SHANNON LAW GROUP PLLC
3151 FIFTH AVENUE S SUITE 1000
SEATTLE, WA 98108-4288
Telephone: (206) 767-0100
Fax: (206) 767-0101

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Arthur W. Harrigan, Jr., Esq.
Christopher T. Wion, Esq.
Shane P. Cramer, Esq.
Calfo Danielson, Harrigan, Leyh & Eakes LLP
arthurh@calfoharrigan.com
chrisw@calfoharrigan.com
shanec@calfoharrigan.com

Richard A. Cederoth, Esq.
Brian R. Nester, Esq.
David T. Pritikin, Esq.
Douglas I. Lewis, Esq.
John W. McBride, Esq.
David Greenfield, Esq.
William H. Baumgartner, Jr., Esq.
David C. Giardina, Esq.
Carter G. Phillips, Esq.
Constantine L. Trela, Jr., Esq.
Ellen S. Robbins, Esq.
Nathaniel C. Love, Esq.
Sidley Austin LLP
rcederoth@sidley.com
bnester@sidley.com
dpritikin@sidley.com
dilewis@sidley.com
jwmcbride@sidley.com
david.greenfield@sidley.com
wbaumgartner@sidley.com
dgiardina@sidley.com
cphillips@sidley.com
ctrela@sidley.com
erobbins@sidley.com
nlove@sidley.com

T. Andrew Culbert, Esq.
David E. Killough, Esq.
Microsoft Corp.
andrycu@microsoft.com
davkill@microsoft.com

DATED this 13th day of September, 2012.

/s/ *Marcia A. Ripley*
Marcia A. Ripley

DECLARATION OF KEVIN J. POST IN SUPPORT OF
MOTOROLA'S RESPONSE TO MICROSOFT'S MOTION TO
AMEND PROTECTIVE ORDER - 5
CASE NO. C10-1823-JLR

SUMMIT LAW GROUP PLLC
315 FIFTH AVENUE SOUTH, SUITE 1000
SEATTLE, WASHINGTON 98104-2682
Telephone: (206) 676-7000
Fax: (206) 676-7001